

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID TROUPE,

Plaintiff,

v.

WILLIAM SWAIN, et al.,

Defendants.

CASE NO. 3:16-CV-05380-RJB-DWC

ORDER ON MOTION FOR
PROTECTIVE ORDER

Plaintiff David Troupe, proceeding *pro se* and *in forma pauperis*, initiated this action pursuant to 42 U.S.C. § 1983. Presently pending before the Court is Defendants' Motion for Protective Order ("Motion"), wherein Defendants request an order limiting discovery. Dkt. 43.¹ Plaintiff filed his Response and Defendants filed their Reply. Dkt. 45, 46.

The Court has broad discretionary powers to control discovery. *Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). Upon showing of good cause, the Court may deny or limit discovery "to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense[.]" Fed. R. Civ. P. 26(c); *see also GTE Wireless, Inc. v. Qualcomm, Inc.*, 192 F.R.D. 284, 285–86 (S.D. Cal. 2000). A court may also relieve a party of the burdens of

¹ Also pending in this action are: (1) Defendants' Motion to Dismiss in Part under Fed. R. Civ. P. 12(c) (Judgment on the Pleadings), which is ready for the Court's consideration on September 16, 2016 (Dkt. 41); and (2) Defendants' Motion and Memorandum for Summary Judgment and Dismissal under Fed. R. Civ. P. 56, which is ready for the Court's consideration on October 7, 2016 (Dkt. 48).

1 discovery while a dispositive motion is pending. *DiMartini v. Ferrin*, 889 F.2d 922 (9th Cir.
 2 1989), *amended at* 906 F.2d 465 (9th Cir. 1990); *Rae v. Union Bank*, 725 F.2d 478 (9th Cir.
 3 1984).

4 Discovery began on August 5, 2016. *See* Dkt. 40. As of September 2, 2016, Plaintiff had
 5 not sent discovery requests to Defendants. Dkt. 47, Judge Supplemental Declaration, ¶4. The
 6 discovery completion date is February 6, 2017. Dkt. 40. Therefore, at this time, the Court finds
 7 Defendants' Motion premature. If Plaintiff begins to propound discovery in a manner which is
 8 unduly burdensome on Defendants or unnecessary in light of the pending dispositive motions,²
 9 Defendants may move for a protective order at that time. Accordingly, Defendants' Motion is
 10 denied without prejudice.³

11 Dated this 9th day of September, 2016.

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 14 David W. Christel
 15 United States Magistrate Judge
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 23 ² Defendants have moved, in part, to dismiss this case based on Plaintiff's failure to state a claim and
 failure to exhaust his administrative remedies. *See* Dkt. 41, 48.

24 ³ Defendants requested the Court stay discovery pending the outcome of the Motion. *See* Dkt. 43. As the
 Court has ruled on the Motion, the request to stay discovery is denied as moot.